



505721

## Patterson, Leslie

**From:** Allen, Mark [Mark.Allen@epa.state.oh.us]  
**Sent:** Thursday, November 07, 2013 8:05 AM  
**To:** Patterson, Leslie; Smith, Madelyn  
**Cc:** Glum, Scott  
**Subject:** Contacted by SDD PRP Group Legal concerning Environmental Covenant for SDD

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** South Dayton

Leslie and Maddie:

This morning I had a voice message on my phone from Wray Blattner, (<http://www.thompsonhine.com/professionals/Blattner-Wray>) representing the PRP group at SDD. The message says that the group has ask him to prepare an environmental covenant (one assume pursuant to Ohio's EC law) for SDD and submit it to US EPA and Ohio EPA. I have not responded as yet and need to be in the field today.

I'm guessing that this may stem from something we did at Valleycrest Landfill (where Ohio EPA was the lead for the RI/FS and EPA is the lead for RD/RA) during the RI. Basically, the Valleycrest PRPs and Ohio EPA did not want residential development on the landfill, but EPA's risk assessment guidance required that a residential scenario be evaluated. We would not allow the on-site residential scenario to be omitted unless enforceable controls were in place that limited the land use to commercial/industrial. An environmental covenant was prepared which provided access for all involved parties to do the RI/FS and the remediation, and following remediation, the covenant would be revisited and revised to allow public access of possible open space as part of the reuse plan in place for the site.

However, there are no businesses sitting on of Valleycrest like there are at SDD, and we had reached the point in the investigation where we had all the site data (field work completed) and understood the situation (albeit risk assessment yet to be submitted). So consider the following with respect to SDD:

- 1) There is a reuse plan and a pretty focused interest in the site by the City of Moraine. If an EC goes forward at this point affecting land use, I suggest that it be coordinated with Moraine officials so they know what is happening and that it (hopefully) lines up with the reuse plan.
- 2) SDD has not completed the field work yet for either operable unit. We are not at the same place in the investigation as we were at Valleycrest.
- 3) The businesses complicate what was relatively straight-forward at Valleycrest, as do open questions about future use of the OU-2 fill area.
- 4) ECs require the cooperation (and signatures) of the involved property owners. This is more complicated at SDD.
- 5) Our management signs ECs when we are the lead; they expect EPA to sign them when EPA is the lead.
- 6) I'm sure there are other issues that don't come to mind at the moment.

Leslie: Maddie is at training, as is the Site Coordinator for Valleycrest (Scott Glum) and they will be back tomorrow (Friday). I'll discuss this further with Maddie and we'll see if we can find Scott and send you what was done at Valleycrest. Alternately, Dion Novak is the RPM for RD/RA at Valleycrest and would also have the EC in his files.

I suggest we talk further about this. However, expect an EC submittal from the PRP group, perhaps sent to Tom Nash. I left a message on WRAY Blattner's phone telling him that Maddie was the Site Coordinator for Ohio EPA and that Maddie could coordinate with legal.

*Ohio EPA's email addresses are changing. Please update your contact information to the new extension @epa.ohio.gov.*

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